

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----x Index No.
THOMAS J. KALAMOTOUSAKIS,

Plaintiff,

SUMMONSPlaintiff designates New York
County as the place of trial

-against-

CHAD L. KARP, MARK D. LAZARUS, and
LAZARUS KARP, LLP,

Defendants.

The basis of venue is based upon
the residence of one of the
Defendants and the county in
which a substantial part of the
events giving rise to the
allegations in the complaint
occurred**TO THE ABOVE NAMED DEFENDANTS:**

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if the summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York
October 8, 2019COX PADMORE SKOLNIK &
SHAKARCHY LLP

By: ____/s/____

Laleh Hawa, Esq.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
THOMAS J. KALAMOTOUSAKIS,

Plaintiff,

Index No.

COMPLAINT

-against-

CHAD L. KARP, MARK D. LAZARUS, and
LAZARUS KARP, LLP,

Defendants.
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Plaintiff Thomas J. Kalamotousakis (“Kalamotousakis” or “Plaintiff”), through his attorneys, Cox Padmore Skolnik & Shakarchy LLP as and for his Complaint against Defendants Chad L. Karp, Mark D. Lazarus, and Lazarus Karp, LLP (collectively “Defendants”), alleges as follows:

NATURE OF THIS ACTION

1. This action involves the break-up of Lazarus, Karp & Kalamotousakis, LLP, a law firm partnership (the “Partnership”) registered with the New York Secretary of State as a limited liability partnership. The Partnership consists of three partners: Plaintiff and Defendants Chad L. Karp and Mark D. Lazarus (the “Partner Defendants”). The Plaintiff dissolved the Partnership on or about May 8, 2019 by written notice to the Partner Defendants. The Partner Defendants then denied Plaintiff access to the Partnership’s financial and case management records, and wrongfully diverted Partnership funds, property and contracts to the Partner Defendants’ new law firm, Defendant Lazarus Karp, LLP. Plaintiff seeks a declaratory judgment of his rights under the New York Partnership Law, an accounting, dissolution, winding-up, appointment of a receiver, and injunctive and other relief.

STATEMENT OF FACTS

I. Parties

2. Plaintiff, Thomas J. Kalamotousakis is a resident of the State of New York.

3. Upon information and belief, Defendant Chad L. Karp is a resident of the State of New York.

4. Upon information and belief, Defendant Mark D. Lazarus is a resident of the State of New York.

5. Upon information and belief, Defendant Lazarus Karp, LLP (sometimes hereafter “LK”), is a New York registered limited liability partnership.

II. Background Facts

6. Plaintiff has been a practicing attorney in the State of New York since 1995.

7. In 2015, Plaintiff and the Partner Defendants verbally agreed to formation of the Partnership, which was registered with the New York Secretary of State as a registered limited liability partnership on December 17, 2015. The Plaintiff and the Partner Defendants have not executed a written partnership agreement.

8. Pursuant to Plaintiff’s verbal agreement with the Partner Defendants, the percentage ownership of the Partnership is split evenly among the three partners, one third each.

9. The Partnership was engaged primarily in real estate transactions and landlord/tenant litigation, operating out of leased office space located at 370 Seventh Avenue, Suite 720, New York, NY 10001.

10. Difficulties and disagreements arose between the Plaintiff and the Partner Defendants concerning material aspects of the conduct of the Partnership and the business of the Partnership. Although Plaintiff sought resolution of these difficulties and disagreements with the Partner Defendants, the parties were unable to come to a resolution.

11. In view of the continuing unresolved difficulties and disagreements, Plaintiff decided to cause a dissolution of the Partnership by giving written notice to the Partner Defendants on May 8, 2019 (the “Notice of Dissolution”). A true and correct copy of Plaintiff’s written notice of dissolution is attached hereto as Exhibit A.

12. The Plaintiff’s Notice of Dissolution proposed, *inter alia*, that certain actions should be had to carry out the winding up of the Partnership.

13. The Notice of Dissolution proposed that work on client matters by the Partnership would cease, with clients to be notified and given the opportunity to select a new law firm (Ex. A. at ¶¶ 1-3);

14. The Notice of Dissolution proposed that notice of the dissolution be given to the Partnership’s staffing agency and vendors (Id. at ¶ 4-6);

15. The Notice of Dissolution proposed that notice of the dissolution be given to the Partnership’s landlord, including notice that the offices would be vacated upon completion of the Partnership’s winding up (Id. at ¶ 7);

16. The Notice of Dissolution proposed that notice of the dissolution be given to the Partnership’s subtenants, including instructions to make preparations to vacate the Partnership’s leased office space (Id. at ¶ 8);

17. The Notice of Dissolution proposed that preparations be made to liquidate or distribute the Partnership’s office furniture and to vacate the Partnership’s office space (Id. at ¶¶ 9-10);

18. The Notice of Dissolution proposed that an accounting of the Partnership’s business be completed, that addresses cash in the Partnership’s operating account, accounts receivable, work in progress and capital accounts (Id. at ¶ 11);

19. The Notice of Dissolution proposed that all clients of the Partnership be invoiced up through and including the date of dissolution (Id. at ¶ 12);

20. The Notice of Dissolution proposed that the disposition of the Partnership's internet URLs (also known as Internet domain names), website, telephone and facsimile numbers be agreed-to by the Plaintiff and the Partner Defendants, or be judicially resolved (Id. at ¶ 13);

21. The Notice of Dissolution proposed that an arrangement for responding to telephonic inquiries and mail sent to the Partnership should be put into place (Id. at ¶ 14);

22. The Notice of Dissolution proposed that all bank and credit card transactions of the Partnership during the winding up process must be approved by all partners, the Plaintiff and the Partner Defendants (Id. at ¶¶ 15-16);

23. The Notice of Dissolution proposed that arrangement should be made in accordance with applicable law with regard to health coverage for employees of the Partnership (Id. at ¶ 17);

24. The Notice of Dissolution proposed that the Partnership's malpractice policy should remain in place with appropriate tail or other coverage obtained (Id. at ¶ 18);

25. The Notice of Dissolution proposed that all other appropriate arrangements be made in connection with the Partnership's winding up (Id. at ¶ 19); and

26. The Notice of Dissolution proposed that because Plaintiff had been primarily responsible for the operations of the Partnership, for Plaintiff to act as the winding up partner to carry out the orderly winding up of the Partnership's affairs (Id. at ¶ 20).

III. The Partner Defendants' Wrongful Conduct

27. The Partner Defendants ignored the proposed actions set forth in Plaintiff's Notice of Dissolution for the winding up of the Partnership, and instead unilaterally and without Plaintiff's consent, which consent was required in connection with the wind up of the

Partnership's affairs, took a series of actions to deprive Plaintiff of his rightful access to the Partnership's financial and client records, and to divert Partnership assets, vendors and contracts to the Partner Defendants' newly formed law firm, defendant Lazarus Karp, LLP.

28. Without the consent of Plaintiff, the Partner Defendants sent correspondence to all of the Partnership's clients on or around May 9, 2019 and May 13, 2019 announcing Plaintiff's withdrawal from the firm, and that the Partner Defendants would be winding up the Partnership and transitioning all clients to their new firm, Defendant Lazarus Karp, LLP.

29. In or around late May 2019, the Partner Defendants blocked Plaintiff's receipt of Partnership mail, by instructing Partnership employees to hide mail addressed to the Plaintiff.

30. The Partner Defendants, themselves and/or through employees of the Partnership directed Partnership clients to pay Partnership invoices for work done prior to the Notice of Dissolution to the Partner Defendants' new firm, Defendant, LK.

31. To deplete Partnership funds and deprive the Plaintiff of his due share of distribution from the Partnership, Partner Defendants hired employees and placed them on the Partnership payroll without consent of Plaintiff.

32. To deplete Partnership funds and deprive Plaintiff of his due share of distribution from the Partnership, Partner Defendants hired employees and placed them on the Partnership payroll without consent of Plaintiff. Upon information and belief, these new "employees" of the Partnership are performing work the Partner Defendants' new firm, Defendant LK, rather than for the Partnership.

33. The Defendant Partners prevented and/or locked out the Plaintiff from the Partnership's computerized accounting program.

34. The Defendant Partners prevented and/or locked out the Plaintiff from the Partnership's computerized case management system.

35. On or about September 9 , 2019, without the consent of Plaintiff, the Defendant Partners executed a document titled "Assignment and Assumption of Lease", purportedly assigning the Partnership's lease with its landlord to their newly created law firm, Defendant LK.

36. On or about September 26, 2019, without the consent of Plaintiff, and in order to deprive the Plaintiff from his due share and distribution from the Partnership assets and or his equity in Partnership assets, the Partner Defendants executed a document titled "Assignment and Assumption of Vendor Contracts and Assets", purportedly assigning all of the assets of the Partnership to their newly created law firm, Defendant LK.

37. The Partner Defendants have taken actions designed to deprive the Plaintiff of his due share and distribution of Partnership assets and/or his equity in the Partnership assets.

38. Upon information and belief, the conduct and actions of the Partner Defendants described above were designed by the Partner Defendants with malice to deprive Plaintiff of business and to injure his reputation.

39. Upon information and belief, the Partner Defendants are using Partnership funds and assets for the use and benefit of their new law firm, defendant Lazarus Karp, LLP.

40. The Partner Defendants have failed to wind up the business and refused to liquidate the Partnership's assets and affairs. They have, without Plaintiff's required consent or authorization, transferred and/or assigned the Partnership's funds, assets, vendors and contracts to defendant Lazarus Karp, LLP, and have incurred new debts and liabilities, have dissipated some of the assets of the Partnership business and threaten to dissipate the balance of the assets of the Partnership.

41. Plaintiff has no adequate remedy at law.

AS AND FOR A FIRST CAUSE OF ACTION
(FOR DECLARATORY JUDGMENT)

42. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

43. Under the New York Partnership Law, a justiciable controversy exists between Plaintiff and the Partner Defendants concerning their rights with respect to the Partnership.

44. Plaintiff seeks a declaratory judgment of the Court declaring the Partnership went into dissolution on May 8, 2019 and its business and affairs are to be wound up by and with the unanimous consent of all of the partners, with Plaintiff having the right as a partner in dissolution to give or deny consent to all decisions regarding the winding up process, and to participate in all aspects of the winding up process, with equal access to electronic and paper records, in-house and cloud based computer systems, mail, electronic mail, financial accounts, personnel, vendors, clients, and revenue of the Partnership, and to all other aspects of the Partnership related to its dissolution and winding up;

45. Plaintiff seeks a declaratory judgment of the Court declaring that following Plaintiff's Notice of Dissolution on May 8, 2019, it is unlawful for the Partner Defendants to bar Plaintiff's access to the Partnership's electronic and paper records, in-house and cloud based computer systems, mail, electronic mail, financial accounts, personnel, vendors, and clients;

46. Plaintiff seeks a declaratory judgment of the Court declaring that following Plaintiff's Notice of Dissolution on May 8, 2019, it is unlawful for the Partner Defendants to sell, transfer or assign any funds, assets, or property of the Partnership without the consent and approval of Plaintiff, and that any such sales, transfers or assignments, by the Partner Defendants on behalf of the Partnership on or after May 8, 2019, are null and void, including

without limitation, the purported Assignment and Assumption of Vendor Contracts and Assets dated September 23, 2019;

47. Plaintiff seeks a declaratory judgment of the Court declaring that following Plaintiff's Notice of Dissolution on May 8, 2019, it is unlawful for the Partner Defendants to alter, cancel or assign any vendor services or vendor contracts of the Partnership without the consent and approval of Plaintiff, including without limitation, with respect to the Partnership's telephone and voicemail services, and that any such alterations, cancellations or assignments by the Partner Defendants on behalf of the Partnership on or after May 8, 2019, are null and void;

48. Plaintiff seeks a declaratory judgment of the Court declaring that all assets, revenue and property of the Partnership, as the same existed on May 8, 2019, be allocated to debts, expenses and liabilities as they existed on May 8, 2019, and that any excess be paid as follows: To Plaintiff as a return of his cash capital account; and thereafter to the partners as their share of profits, with one third payable to Plaintiff and two thirds payable to the Partner Defendants; and

49. Plaintiff seeks a declaratory judgment of the Court declaring that the Plaintiff's and Partner Defendant's cash capital accounts with respect to the Partnership include both cash capital contributed to the Partnership by each partner and accrued capital including, but not limited to, accounts receivable and work in process fees and that the accounts between the partners be settled as provided for in Partnership Law § 71.

50. Plaintiff has no other adequate remedy at law.

AS AND FOR A SECOND CAUSE OF ACTION
(FOR AN ACCOUNTING)

51. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

52. Pursuant to the New York Partnership Law, by reason of the dissolution of the Partnership, Plaintiff is entitled to an accounting of all Partnership transactions and of the monies received by the Partnership and by the Partner Defendants, in order to settle the accounts between Plaintiff and the Partner Defendants as partners of the Partnership.

AS AND FOR A THIRD CAUSE OF ACTION
(WINDING UP)

53. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

54. Under Partnership Law § 68 and/or Partnership Law §75, Plaintiff is entitled and has the right to wind up the Partnership affairs.

55. Alternatively, Plaintiff respectfully requests that the winding up be done by the Court as provided in Partnership Law § 68 and/or Partnership Law §75, with or without a receiver.

AS AND FOR A FOURTH CAUSE OF ACTION
(DETERMINATION AND ENFORCEMENT OF ATTORNEY'S LIEN—
JUD. LAW § 475)

56. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

57. The Partner Defendants and, upon information and belief, defendant Lazarus Karp, LLP, have received monies based upon the Partnership's representation of clients in prosecuting such client's claims, causes of actions and/or counterclaims, and the Partner Defendants and/or defendant Lazarus Karp, LLP are/is in custody and control of the "proceeds thereof" under the terms of Jud. Law § 475.

58. Plaintiff has a charging lien or attorneys' lien on the proceeds and is entitled to a determination by the Court of the amount of the lien, and Plaintiff is also entitled to enforcement of the lien.

AS AND FOR A FIFTH CAUSE OF ACTION
(PERMANENT INJUNCTIVE RELIEF)

59. Plaintiff repeats and re-alleges the allegations set forth above as if fully set forth herein.

60. Plaintiff, having no adequate remedy at law, respectfully requests the Court permanently enjoin and direct the Defendants as follows:

- a. Enjoining the Defendants from taking any action with respect to the winding up of the Partnership without the written consent of the Plaintiff;
- b. Enjoining the Defendants from continuing to bar Plaintiff's access to the Partnership's electronic and paper records, in-house and cloud based computer systems, mail, electronic mail, financial accounts, personnel, vendors, and clients;
- c. Enjoining the Defendants from taking any further actions to purport to sell, transfer or assign any funds, assets, or property of the Partnership without the consent and approval of Plaintiff;
- d. Enjoining the Defendants from taking any further actions to alter, cancel or assign any vendor services or vendor contracts of the Partnership without the consent and approval of Plaintiff;
- e. Enjoining and directing the Partner Defendants and/or defendant Lazarus Karp LLP to place in an escrow bank account under the joint custody and control of the Partner Defendants and Plaintiff until final implementation of any accounting, dissolution and winding up of the Partnership granted under this Complaint:

- (1) All cash on hand and/or cash balances in the accounts of the Partnership as of May 8, 2019;
 - (2) All checks, funds and monies received from the clients of the Partnership for services performed and/or disbursements incurred prior to May 8, 2019. (“pre-dissolution revenues”);
 - (3) Any other checks, funds or monies relating to accounts receivable of the Partnership, billings and payments for services and/or disbursements for work in process of the Partnership prior to May 8, 2019; and
 - (4) All funds in whatever account of the Partner Defendants and/or defendant Lazarus Karp LLP, and in whatever form, reflecting and/or consisting of pre-dissolution revenues of the Partnership;
- f. Enjoining and requiring the Partner Defendants and/or defendant Lazarus Karp, LLP to provide Plaintiff with access to any and all files, books, records, computer files, computerized financial accounting systems, computerized case management systems, and other data of the Partnership, including but not limited to bank records, accounting records, financial records, letters, memoranda, notes, bills, client files, invoices and bills, correspondence and faxes concerning wire transfers and payments, in each instance relating to (a) funds of and funds owed to the Partnership and (b) the business of the Partnership as it existed on and before May 8, 2019;
- g. Enjoining the Partner Defendants and/or defendant Lazarus Karp, LLP, from preventing Plaintiff’s access to the premises occupied on and before May 8, 2019 by the Partnership, thus to enable Plaintiff to acquire knowledge about and

participate in the collection revenues and to enable him to participate in the dissolution and winding up of the business of the Partnership;

- h. Restraining and enjoining the Partner Defendants and their agents, employees and anyone acting on their behalf from impairing or interfering with Plaintiff's rights in the dissolution, winding up and assets of the Partnership;
- i. Restraining and enjoining the Partner Defendants and their agents, employees and anyone acting on their behalf from disposing of any monies, funds, assets, files, documents, contracts, or books and records of the Partnership;
- j. Restraining and enjoining the Partner Defendants and their agents, employees and anyone acting on their behalf from using or taking any assets, funds or monies belonging to the Partnership for the use and/or benefit of the Partner Defendants and/or defendant Lazarus Karp, LLP;
- k. Enjoining and directing the Partner Defendants to turn over to Plaintiff on written demand from any client of the Partnership, any and all files and other data of the Partnership in the possession or control of the Partner Defendants pertaining to that client.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment as follows:

1. Under the First Cause of Action, a declaratory judgment declaring the respective rights and obligations of the Plaintiff and the Partner Defendants as stated in the First Cause of Action including paragraphs 44 through 49 therein.

2. Under the Second Cause of Action, a determination that the Partnership was dissolved on May 8, 2019, and for an accounting at that time of all of the Partnership's dealings and transactions and assets.
3. Under the Second Cause of Action, that the property of the Partnership after the payment of the Partnership liabilities be divided between the Plaintiff and the Partner Defendants according to their respective interests, i.e., one third to Plaintiff and two thirds to the Partner Defendants after distribution is made pursuant to Partnership Law § 71.
4. Under the Third Cause of Action that under Partnership Law § 68 and/or under Partnership Law §75 that there be a winding up of the Partnership, that the winding up be conducted by Plaintiff or, alternatively, that the winding up be conducted by the Court, with or without a receiver.
5. Under the Fourth Cause of Action, and pursuant to Jud. Law § 475, that the Court determine and enforce the attorney's lien of Plaintiff for services rendered by the Partnership to clients of the Partnership in connection with such clients' causes of actions, claims and counterclaims and which resulted in "proceeds thereof" coming into the control and possession of the Partner Defendants and/or Defendant Lazarus Karp, LLP.
6. Under the Fifth Cause of Action, permanent injunctive relief as set forth therein.
7. Together with costs, disbursement and attorneys' fees and such other and further relief as may be just and proper.

Dated: New York, New York
October 8, 2019

COX PADMORE SKOLNIK &
SHAKARCHY LLP

By: _____/s/_____

Laleh Hawa, Esq.

Attorneys for Plaintiff

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